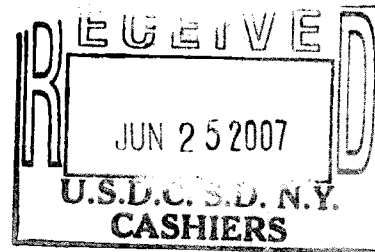


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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)
BROADCAST MUSIC, INC.;)
MICHAEL JOE JACKSON, an)
individual d/b/a MIJAC MUSIC;)
MIRAN PUBLISHING, INC.; HIP)
CITY MUSIC, INC.; HIRIAM HICKS)
and ELLIOT STRAITE, a)
partnership d/b/a HIFROST)
PUBLISHING; ZOMBA SONGS, INC.;)
R.KELLY PUBLISHING, INC.;)
TEDRA SHENITA MOSES, an)
individual d/b/a RAS N TAJ)
MUSIC; PAUL POLI, an)
individual d/b/a PAUL POLI)
MUSIC; EMI BLACKWOOD MUSIC)
INC.; PLEASE GIMME MY)
PUBLISHING INC.; UNICHAPPELL)
MUSIC, INC.; PHARRELL L.)
WILLIAMS, an individual d/b/a)
WATERS OF NAZARETH PUBLISHING,)
)
Plaintiffs,)
)
v.)
)
TWENTY ONES, INC.)
d/b/a 40/40 CLUB,)
DESIREE GONZALEZ a/k/a)
EPIFANIA GONZALEZ and)
JUAN PEREZ, each individually,)
)
Defendants.)
)
-----X

JUDGE KARAS

'07 CIV 5994

CIVIL ACTION NO.:

COMPLAINT

Plaintiffs, by their attorneys, for their Complaint against
Defendants, allege as follows (on knowledge as to Plaintiffs;

otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff, Broadcast Music, Inc. ("BMI"), is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 320 West 57th Street, New York, New York 10019. BMI has been granted the right to license the public performance rights in approximately 6.5 million copyrighted musical compositions (the "BMI repertoire"), including those which are alleged herein to have been infringed.

4. The other Plaintiffs are the owners of the copyrights in the musical compositions which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Defendant Twenty Ones, Inc. is a corporation organized and existing under the laws of the state of New York, which

operates, maintains and controls an establishment known as 40/40 Club, located at 6 West 25th Street, New York, NY 10010, in this district (the "Establishment").

6. In connection with the operation of this business, Defendant Twenty Ones, Inc. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

7. Defendant Twenty Ones, Inc. has a direct financial interest in the Establishment.

8. Defendant Desiree Gonzalez is an officer of Defendant Twenty Ones, Inc. and the manager of the Establishment with primary responsibility for the operation and management of that corporation and the Establishment.

9. Upon information and belief, Desiree Gonzalez is also known as Epifania Gonzalez.

10. Defendant Desiree Gonzalez has the right and ability to supervise the activities of Defendant Twenty Ones, Inc. and the Establishment and a direct financial interest in that corporation and the Establishment.

11. Defendant Juan Perez is an officer of Defendant Twenty Ones, Inc. with responsibility for the operation and management of that corporation and the Establishment.

12. Defendant Juan Perez has the right and ability to supervise the activities of Defendant Twenty Ones, Inc. and a direct financial interest in that corporation and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

13. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 12.

14. Plaintiffs allege seven (7) claims of copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

15. Annexed as the Schedule and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the seven (7) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information: Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 noting the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the Registration number(s); Line 7 showing the date(s) of infringement; and Line 8 identifying the location of the establishment where the infringement occurred.

16. Each of the musical compositions identified on the

Schedule, Line 2, were created by the persons named on Line 3 (all references to Lines are lines on the Schedule).

17. On or about the dates indicated on Line 5, the publishers named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the numbers listed on Line 6.

18. On the dates listed on Line 7, Plaintiff BMI was and still is the licensor of the public performance rights in the musical compositions identified on Line 2. On the dates listed on Line 7, the Plaintiffs listed on Line 4 were and still are the owners of the copyright in the respective musical composition listed on Line 2.

19. On the dates listed on Line 7, Defendants performed and/or caused the musical compositions identified on Line 2 to be publicly performed at the Establishment without a license or permission to do so. Thus, Defendants have committed copyright infringement.

20. The specific acts of copyright infringement alleged, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) That Plaintiffs have such other and further relief as is just and equitable.

Dated: June 21, 2007

By: 

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Attorney for Plaintiffs

Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Billie Jean
Line 3	Writer(s)	Michael Jackson
Line 4	Publisher Plaintiff(s)	Michael Joe Jackson, an individual d/b/a Mijac Music
Line 5	Date(s) of Registration	12/27/82
Line 6	Registration No(s).	PA 158-772
Line 7	Date(s) of Infringement	3/11/06
Line 8	Place of Infringement	40/40 Club

Line 1	Claim No.	2
Line 2	Musical Composition	Don't Stop a/k/a Don't Stop Till You Get Enough
Line 3	Writer(s)	Michael Joe Jackson
Line 4	Publisher Plaintiff(s)	Miran Publishing, Inc.
Line 5	Date(s) of Registration	6/18/79 8/11/80
Line 6	Registration No(s).	Pau 114-601 PAu 240-861
Line 7	Date(s) of Infringement	3/11/06
Line 8	Place of Infringement	40/40 Club

Line 1	Claim No.	3	
Line 2	Musical Composition	Poison	
Line 3	Writer(s)	Elliot T. Straite	
Line 4	Publisher Plaintiff(s)	Hip City Music Inc.; Hiriam Hicks and Elliot Straite, a partnership d/b/a Hifrost Publishing	
Line 5	Date(s) of Registration	8/14/89 6/7/90	3/19/90
Line 6	Registration No(s).	PAu 1-264-846 PA 475-115	PAu 1-410-225
Line 7	Date(s) of Infringement	3/11/06	
Line 8	Place of Infringement	40/40 Club	

Line 1	Claim No.	4	
Line 2	Musical Composition	Thoia Thoing	
Line 3	Writer(s)	Robert Kelly	
Line 4	Publisher Plaintiff(s)	Zomba Songs, Inc.; R. Kelly Publishing, Inc.	
Line 5	Date(s) of Registration	2/6/04	
Line 6	Registration No(s).	PA 1-158-652	
Line 7	Date(s) of Infringement	3/10/06	
Line 8	Place of Infringement	40/40 Club	

Line 1	Claim No.	5	
Line 2	Musical Composition	Dip It Low	
Line 3	Writer(s)	Tedra S. Moses; Paul Poli	
Line 4	Publisher Plaintiff(s)	Tedra Shenita Moses, an individual d/b/a Ras N Taj Music; Paul Poli, an individual d/b/a Paul Poli Music	
Line 5	Date(s) of Registration	6/22/04	
Line 6	Registration No(s).	PA 1-228-871	
Line 7	Date(s) of Infringement	3/10/06	
Line 8	Place of Infringement	40/40 Club	

Line 1	Claim No.	6
Line 2	Musical Composition	Goldigger a/k/a Gold Digger
Line 3	Writer(s)	Kanye Omari West; Ray Charles; Renalds Richard
Line 4	Publisher Plaintiff(s)	EMI Blackwood Music Inc.; Please Gimme My Publishing Inc.; Unichappell Music, Inc.
Line 5	Date(s) of Registration	9/21/05
Line 6	Registration No(s).	PA 1-162-405
Line 7	Date(s) of Infringement	3/11/06
Line 8	Place of Infringement	40/40 Club

Line 1	Claim No.	7
Line 2	Musical Composition	Touch
Line 3	Writer(s)	Pharrell L. Williams
Line 4	Publisher Plaintiff(s)	Pharrell L. Williams, an individual d/b/a Waters Of Nazareth Publishing; EMI Blackwood Music Inc.
Line 5	Date(s) of Registration	4/4/05
Line 6	Registration No(s).	PA 1-160-867
Line 7	Date(s) of Infringement	3/11/06
Line 8	Place of Infringement	40/40 Club